

SUBJECT: CONSUMER PROTECTION — TELEPHONIC HOME SOLICITATION SALES

ATTORNEY GENERAL — PUBLIC PROTECTION UNIT

ADOPTED PURSUANT TO 9 V.S.A SECTION 2453(c)

RULE CP 113

Effective Date: 7/1/94

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**CP 113.01 Definitions**

(a) A “telephonic home solicitation sale” is a sale or lease, or the offer for sale or lease, of goods or services with a purchase price of \$5.00 or more, whether under single or multiple contracts, where the sale, lease or offer thereof is solicited or consummated by a seller wholly or in part by telephone with a consumer at the residence or place of business or employment of the consumer. A “telephonic home solicitation sale” does not include the transactions listed in the third sentence of 9 V.S.A. § 2451 a(d).

(b) “Business days” mean Monday through Friday, excluding legal holidays listed in 1 V.S.A. § 371.

**CP 113.02 Required notices**

(a) In every telephonic home solicitation sale, the seller shall furnish to the consumer a receipt or contract pertaining to the sale and containing the date of the transaction, the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the consumer or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of ten points, a statement in substantially the following form:

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date you receive both this contract or receipt and the complete notice of cancellation explaining this right as required by Vermont law, which should be attached.

The seller shall send this receipt or contract to the consumer prior to charging the consumer’s credit card account, debiting the consumer’s bank account, instructing the consumer to send a check or money order, or otherwise initiating payment by the consumer for the goods or services sold.

(b) In addition to the notice described in subsection (a) of this section, in every telephonic home solicitation sale, unless the consumer has made a handwritten and signed request to the seller to provide goods or services without delay in an emergency pursuant to 9 V.S.A. § 2454(a)(5), the seller shall send to the consumer, prior to charging the consumer's credit card account or otherwise initiating payment by the consumer, two copies of a notice of cancellation, which notice shall be attached to the contract or receipt and easily detachable.

(1) The notice of cancellation shall contain the following information and statements, printed in not less than ten point boldface type:

**NOTICE OF CANCELLATION**

**You may cancel this transaction, without any penalty or obligation, within three business days of receiving this notice and a contract or receipt pertaining to the transaction.**

**If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.**

**If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.**

**If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.**

**To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to [name of seller] at [address of seller's place of business] no later than midnight of the third business day after you receive this notice and your contract or receipt.**

(2) Before sending copies of the "Notice of Cancellation" to the buyer, the seller shall complete both copies of the notice by entering the name of the seller and the address of the seller's place of business.

(c) In addition to the written notices required by subsections (a) and (b) of this section, in any telephonic home solicitation sale the seller shall, prior to the buyer's receipt of the written notices, orally inform the buyer of his or her right to cancel the transaction.

(d) The cancellation period of three business days shall run from the time the consumer receives the required notices described in CP 113.02.

**CP 113.03 Cancellation**

Until the consumer has received the notices described in CP 113.02, the consumer or any other person obligated for any part of the purchase price in a telephonic home solicitation sale may cancel the transaction by notifying the seller in any manner and by any means of his or her intention to cancel.

**CP 113.04 Restoration of Payments**

Within ten days after a telephonic home solicitation sale has been canceled, the seller shall tender to the consumer any payment made by credit card, tender may be accomplished by issuing a credit to the consumer's account.

**CP 113.05 Violations**

A violation of this rule shall be considered an unfair and deceptive act and practice in commerce under 9 V.S.A. § 2453(a).

**CP 113.06 Other requirements**

Except as expressly provided herein, this rule shall not modify any obligations, rights, or legal liability provided for in 9 V.S.A. §2454.